

## Message Text

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ACTION AF-10

INFO OCT-01 IO-13 ISO-00 DHA-02 CIAE-00 DODE-00 PM-05

H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 CU-02 /074 W

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R 291330Z JUL 77

FM AMCONSUL DURBAN

TO SECSTATE WASHDC 2629

INFO AMEMBASSY PRETORIA

AMCONSUL CAPE TOWN

AMCONSUL GOHANNESBURG

USMISSION GENEVA

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EO 11652: NA

TAGS: PINT, SHUM, SF

SUBJ: ZULULAND UNIVERSITY TRIAL ENDS WITH ACQUITTAL OF ALL  
DEFENDANTS

REF: DURBAN A-49

1. BEGIN UNCLASSIFIED ALL REMAINING 19 DEFENDANTS IN THE TRIAL OF STUDENTS FROM THE UNIVERSITY OF ZULULAND ACCUSED OF ARSON AND SABOTAGE DURING THE 1976 RIOTS AT THE SCHOOL WERE ACQUITTED JULY 28. DECISION WAS HANDED DOWN BY JUDGE (JUSTICE MILNE) AFTER THE PROSECUTION UNEXPECTEDLY RESTED ITS CASE JULY 27. THE STATE PROSECUTOR ADMITTED THAT HIS EVIDENCE DEPENDED LARGELY ON THE ACCOUNTS OF STUDENTS WHO HAD BEEN ACCOMPLICES DURING THE RIOTS AND THAT NOT ALL OF THEIR TESTIMONY HAD BEEN SATISFACTORY. PROSECUTOR ADDED THAT THE COURT COULD COME TO A JUST DECISION WITHOUT HEARING FURTHER TESTIMONY SINCE HE COULD NOT FAIRLY ASK FOR A CONVICITON BASED ON THE EVIDENCE PRESENTED. JUSTICE MILNE THEN RULED THAT THERE WAS NO EVIDENCE WITH WHICH A REASONABLE MAN COULD  
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FIND ANY OF THE ACCUSED GUILTY. AFTER THE SURPRISE VERDICT, DEFENDANTS GAVE THE CLENCHED FIST SALUTE AND JUBILANTLY LEFT THE COURT. END UNCLASSIFIED

2. BEGIN LIMITED OFFICIAL USE: AFTER TRIAL ENDED, CONGEN OFFICER SPOKE WITH BLACK ADVOCATE LOUIS SKWEYIWA, ONE OF THE DEFENSE ATTORNIES IN THE CASE. SKWEYIYA WAS JUBILANT OVER

RESULT BUT SAID IT WAS ONLY THROUGH OVER-ZEALOUSNESS ON PART OF POLICE THAT AN ACQUITTAL WAS WON. HE SAID THERE WAS AN OVERWHELMING PREPONDERANCE OF EVIDENCE INDICATING THE GUILT OF ALL BUT ONE OF THE 20 DEFENDANTS. HOWEVER, HE SAID, THE POLICE WERE NOT SATISFIED WITH THEIR AMOUNT OF EVIDENCE AND RESORTED TO COERCION, BRIBES AND HARRASSMENT OF THE ACCOMPLICES IN THE CASE, WHO WERE DETAINED SINCE JULY OF LAST YEAR TO PROVIDE ADDITIONAL PROOF. INSTEAD OF ACCEPTING STATEMENTS IMPLICATING TWO OR THREE SPECIFIC STUDENTS INVOLVED IN AN ACT, THE POLICE ATTEMPTED TO FORCE DETAINED WITNESSES TO IMPLICATE FIVE OR SIX APIECE. UNDER CROSS-EXAMINATION IT WAS NOT DIFFICULT TO DISCREDIT AT LEAST PART OF THIS TESTIMONY AND TO ENCOURAGE MANY OF THE DETAINED STATE WITNESSES TO STATE THAT THEY HAD BEEN MISTREATED BY THE POLICE. AS THE STATE'S CASE BEGAN TO UNRAVEL SEVERAL WEEKS AGO, SKWEYIYA SAID THE PROSECUTING ATTORNEY ASKED THE NATAL ATTORNEY GENERAL FOR PERMISSION TO DROP THE CASE BUT WAS TOLD TO CONTINUE. THE PROSECUTOR, HOWEVER, SAID HE WOULD NOT PERSONALLY DENY THE ALLEGATIONS AGAINST THE POLICE AND CALLED POLICEMEN ACCUSED OF BRUTALITY AS STATE WITNESSES. WHILE THE POLICEMEN DENIED HAVING MISTREATED THE PRISONERS, THE DEFENSE WAS AT LEAST ABLE TO PROVE THAT THE POLICE LOG BOOKS HAD BEEN FALSIFIED (REFAIR) AND THUS TO CAST DOUBT ON THE VERACITY OF POLICE REPORTS. AT THIS JUNCTURE THE PROSECUTOR, IN EFFECT, DROPPED HIS CASE AND THE JUDGE ORDERED AN ACQUITTAL.

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EM SKWEYIYA WAS DISAPPOINTED THAT THE CASE DID NOT GO TO A FINAL JUDGEMENT, SINCE HE WAS CONFIDENT OF THE VERDICT AND BELIEVED THAT A Surer JUDICIAL PRECEDENT WOULD THUS HAVE BEEN ESTABLISHED ON THE VALIDITY OF TESTIMONY OF WITNESSES DETAINED AND MISTREATED FOR LONG PERIODS BY THE POLICE. HE SUSPECTS THAT THIS EVENTUALITY PROMPTED THE STATE TO DROP THE CASE AT THIS JUNCTURE. HE SAID HIS NEXT STEP WOULD BE TO ACCUSE THE POLICE OF MISTREATING ONE PARTICULAR PRISONER. IF THE STATE DECLINES TO PROSECUTE THE POLICEMAN INVOLVED, THEN SKWEYIYA INDICATED HE WOULD SEEK A "CERTIFICATE TO PROSECUTE", GIVING HIM THE RIGHT TO TAKE A CRIMINAL CASE BEFORE A JUDGE. HE SAID THERE WAS ABUNDANT EVIDENCE IN THIS PARTICULAR INSTANCE AND HE WAS CONFIDENT THEY WOULD BE ABLE TO ESTABLISH A JUDICIAL PRECEDENT BY SUCCESSFULLY PROSECUTING A POLICEMAN FOR MIS-TREATMENT OF A DETAINEE.

4. SKWEYIYA INDICATED THAT HIS NEXT "POLITICAL CASE" WOULD BE IN CONNECTION WITH THE TRIAL OF DEFENDANTS ACCUSED OF ARSON AND RIOTING IN THE Uitenhage DISTURBANCES IN CAPE PROVINCE EARLIER THIS YEAR.

FARBER

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## Message Attributes

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**Concepts:** TRIALS, COURT DECISIONS  
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